

DEPUTY DIRECTIVE

Number: DD-23

Refer to
Director's Policy: 06-Caltrans' Partnerships
07-Project Delivery
10-Departmental
Commitments

Effective Date: 6-28-94

Supersedes: New

Title: Developing Special Funded Projects

POLICY

Caltrans strongly supports and works in partnership with cities, counties, local transportation authorities, transit agencies and private developers in the implementation of Special Funded Projects developed and funded by them on the State Highway System.

All projects on the State Highway System, regardless of funding, must adhere to Caltrans' standards, practices and procedures. Specific project roles and responsibilities from start of project development through construction are defined in the Developing Special Funded Projects Guidelines and are covered in the Cooperative Agreements established between the Department and the local entity sponsoring the project, or in a Highway Improvement Agreement with a private project sponsor.

BACKGROUND

The Department's policy for developing Special Funded Projects on the State Highway System was previously based on Sections 14529.11 through 14529.13 of the Government Code. These sections contained sunset clauses of January 1, 1992. AB 1602, Chapter 383, Statutes 1991 extended the sunset date of Section 14529.11 to January 1, 1994. All three sections have now expired. A Policy Memo (dated December 11, 1991, signed by R. P. Weaver) established that the procedures contained in Sections 14529.12 and 14259.13 were to remain policy with some minor changes. As these State/local/private partnerships continue to evolve, it is essential that all parties maintain a clear understanding of each other's roles and responsibilities. This Deputy Directive replaces and modifies the policy and procedure established in the expired statutes and the 1991 Policy Memo.

DEFINITION

A Special Funded Project includes: local sales-tax measure projects; locally funded projects; privately funded projects; public toll road facilities (not the privatization toll road projects) located on the State Highway System, that are developed and constructed using local or private funds. Other type of projects that are complementary to the Special Funded Projects include: encroachment permit projects, and jointly funded or cooperative projects.

Detailed definitions of Special Funded Projects, as well as encroachment permit projects and jointly funded or cooperative projects, including Caltrans' roles and responsibilities, are defined in the Developing Special Funded Projects Guidelines and in Chapter 3 "Roles and Responsibilities for Local and Private Entities" of the procedure manual for Special Funded State Highway Projects and other applicable Caltrans manuals.

RESPONSIBILITIES

District Directors and Deputy District Directors, in the spirit of partnership:

- Make commitments to Special Funded Project sponsors, based on Caltrans' having the resources available, and ensure the delivery of products, services, and oversight for which Caltrans is responsible as outlined in the policies, procedures, regulations and laws governing Caltrans.
- Assess that the project sponsor is financially able to see their proposed project through construction to completion before starting work on the Project Study Report.
- Provide adequate level of oversight of the special funded projects, and empower project managers and supervisors with the authority and responsibility to deliver products and services for which Caltrans is responsible.
- Ensure that District employees are responsive to the needs of the project sponsor, while keeping the best interest of Caltrans in mind.
- Appoint a project manager as a single point of contact between the project sponsor and Caltrans, and to coordinate with affected Caltrans units.

The Chief, Division of State and Local Project Development:

- Develops policy and procedures for project development of special funded projects.
- Oversees the Districts to ensure that agreements are executed in a timely manner and within the policies, procedures, and laws governing Caltrans.
- Acts as Caltrans' ombudsman for the Special Funded Program as outlined in the Local Programs Dispute Resolution Process.

Project Managers and Supervisors:

- Empower employees with the appropriate tools, resources, time and training to deliver the products and services for which Caltrans is responsible as outlined in all applicable Caltrans manuals and Cooperative Agreements or Highway Improvement Agreements.


- In partnership with the project sponsor re-prioritize commitments to ensure the successful delivery of both Caltrans' and project sponsor's projects.
- Communicate to their District Director and Deputy District Directors any changes or problems that could delay the successful delivery of a project.

Employees:

- Assist the Department in providing quality and timely products and services to the project sponsors.
- Communicate to their manager and supervisor any changes or problems that could delay the successful delivery of a project.

APPLICABILITY

All employees working on Special Funded Projects.



R. P. WEAVER
Interim Chief Deputy Director

DEVELOPING SPECIAL FUNDED PROJECTS

GUIDELINES

The roles, responsibilities, and agreement requirements for Special Funded Projects, from start of project development through construction, are outlined below.

- Local Sales-Tax Measure Projects are defined as those State Highway System projects identified in an approved "Sales-Tax Measure Expenditure" and/or "Strategic Plan." The projects are funded 50% or more from local sales-tax revenues with construction costs greater than \$1,000,000 and in an existing and/or future State highway right-of-way that are not in State programming documents (STIP, SHOPP, TSM or Toll Bridge Program). Funds are generated from a voter-approved countywide sales-tax increase for transportation. Local Sales-Tax Measure Projects with construction costs less than \$1,000,000 shall be considered to be Encroachment Permit Projects. Projects funded with less than 50% sales-tax revenues shall be considered "Locally Funded Projects." Sales-tax projects can utilize State/Local Transportation Partnership Program (SLTPP) funds and still be considered Sales-Tax Measure Projects. Typically, Sales-Tax Measure Projects are freeway capacity improvement projects with countywide significance such as new routes, lane additions, and major interchange improvements.

As the owner/operator responsible for the maintenance, operations, and expansion of the State Highway System, Caltrans is responsible for performing and funding all project development work through the Environmental Document (ED) approval. If Caltrans is unable to comply with schedules for the Project Study Report (PSR) and the ED established by the Sales-Tax Measure Authority, the Authority may undertake this work at the Authority's expense, with appropriate oversight provided and funded by Caltrans.

The Sales-Tax Measure Authority is responsible for funding and performing all project development, right-of-way, and construction following ED approval. Caltrans provides oversight at the State's expense. If requested by the Sales-Tax Measure Authority, Caltrans may do some of the services (which the Authority is responsible) on a reimbursed basis if Caltrans has sufficient staffing resources and reimbursed budget authority. One or more cooperative agreements between the State and the Sales-Tax Measure Authority will be required (for Sales-Tax Measure Projects on the State Highway System) to set forth the responsibilities and funding for the various phases of project development and construction.

- Locally Funded Projects are defined as local agency sponsored projects (nonsales-tax measure) on the State Highway System with construction costs greater than \$1,000,000. These projects are in an existing and/or future State highway right-of-way that are not in a State programming document. Funds may be generated from developer fees and contributions, assessment districts, local share of State gas taxes, sales-tax revenues, local property taxes, local Federal aid, nonhighway Federal programs and SLTPP. Locally Funded Projects are typically highway projects with local significance such as interchange and intersection improvements, over crossings, transit, and signalization projects. Local Funded Projects with construction costs less than \$1,000,000 shall be considered to be Encroachment Permit Projects.

As the owner/operator responsible for assessing the impact of improvements on the existing State Highway System, Caltrans is responsible for preparing the PSR at Caltrans' expense. It is the responsibility of the local agency to provide suitable engineering data and technical (and financial) information needed for Caltrans to prepare the PSR. If Caltrans is unable to comply with the schedule desired by the local agency, the local agency may prepare and submit a draft PSR at its own expense. If the Locally Funded Projects result in significant capacity improvement (construction of more than two-lane miles of State highway or construction of an improvement to a major freeway/freeway interchange), Caltrans is responsible for performing and funding all project development work through ED approval. If Caltrans is unable to comply with schedules for PSR and ED

established by the local agency, the local agency may undertake this work at the local agency's expense. All subsequent project development, right-of-way, and construction activities are to be performed and funded by the local agency, with Caltrans providing oversight at the State's expense. If requested by the local agency, Caltrans may do some of the services (which the local agency is responsible) on a reimbursed basis if Caltrans has sufficient staffing resources and reimbursed budget authority.

One or more cooperative agreements between Caltrans and the local agency will be required (for all Locally Funded Projects on the State Highway System) to set forth the responsibilities and funding for the various phases of project development and construction.

In the spirit of "Partnership," local agencies will no longer be required to pay Caltrans oversight costs if the project is not awarded within five years after approval of the PSR. Existing cooperative agreements that have this requirement can be amended to implement this change in policy.

- Privately Funded Projects are defined as projects on the State Highway System sponsored by a nonpublic agency with construction costs greater than \$1,000,000. These projects are in an existing and/or future State highway right-of-way that are not in a State programming document. Once a Privately Funded Project is identified, a decision must be made to designate the project sponsor. Caltrans strongly encourages local agencies to sponsor Privately Funded Projects to demonstrate community acceptance of a project and to improve coordination with other local agencies. If a local agency sponsors a Privately Funded Project, it becomes a Locally Funded Project and is processed as such. Where a local agency will not sponsor the Privately Funded Project, Caltrans will work directly with the private project sponsor.

As the owner/operator responsible for assessing the impact of improvements on the existing State Highway System, Caltrans is responsible for preparing the PSR at Caltrans expense. It is the responsibility of the private project sponsor to provide suitable engineering data and technical (and financial) information needed for Caltrans to prepare the PSR. If Caltrans is unable to comply with the schedule desired by the private project sponsor, the private project sponsor may prepare and submit a draft PSR at its own expense. The private project sponsor is responsible for performing and funding all subsequent project development, right-of-way, and construction activities with Caltrans providing oversight at the private project sponsor's expense. If requested by the private project sponsor, Caltrans may do some of the services (which the private project sponsor is responsible) on a reimbursed basis if Caltrans has sufficient staffing resources and reimbursed budget authority.

A Highway Improvement Agreement (HIA) accompanied by an Escrow Agreement, if applicable, will be required for all Privately Funded Projects.

- Public Toll Road Projects (Not the "Privatization" Toll Road Projects) are defined as those projects authorized under Sections 188.4, 531, 541, & 561 of the Streets and Highways Code. These sections authorized the creation of specific locally funded toll road facilities in Orange County (three new major freeway corridors) to become part of the State Highway System.

As the future owner/operator of the "Public Toll Road Facilities," Caltrans is responsible for providing oversight of the local toll road project development through construction at Caltrans' expense. If requested by the Toll Road Authority, Caltrans may do some of the work (which the Toll Road Authority is responsible) on a reimbursed basis if Caltrans has sufficient staffing resources and reimbursed budget authority. One or more agreements between the State and the Toll Road Authority will be required to cover responsibilities and funding that will include maintenance, operations, and acceptance into the State Highway System.

Listed below are definitions and responsibilities of other types of projects that are complementary to the Special Funded Projects.

- Encroachment Permit Projects are defined as projects on the State Highway System that are 100% funded and constructed by either a local agency, sales-tax measure sponsor, or a private entity with construction costs of \$1,000,000 (or less) within the existing or future State Highway right-of-way. Such projects shall follow established State policies and procedures for encroachment permits that will include preparation of the Permit Engineering Evaluation Report (PEER) and any other appropriate reports if required in Caltrans manuals. An agreement may be required on Encroachment Permit Projects. Types of Encroachment Permit Projects requiring agreements are those involving, but not limited to, signal construction, landscaping, and soundwalls. Refer to the Cooperative Agreement Manual for agreement requirements.

On Encroachment Permit Projects, with construction costs greater than \$300,000 in the existing or future State highway right-of-way, the District Construction office shall continue to provide a State representative who shall be responsible for oversight of the construction of the project.

Utility projects and drainage easement projects shall continue to be considered Encroachment Permit Projects no matter what the construction costs may be.

In those rare instances on Encroachment Permit Projects where a Sales-Tax Measure Authority or a local agency requests Caltrans to do project development, right-of-way, or construction activities (which they are responsible), Caltrans may do some of those activities on a reimbursed basis if Caltrans has sufficient staffing resources and reimbursed budget authority. A cooperative agreement will be required to set forth the responsibilities and funding for the reimbursed activities.

Note: An encroachment permit is also required (in addition to other agreements) on all Special Funded Projects whenever the project sponsor (their consultants or contractors) work within the existing State highway right-of-way.

- Jointly Funded or Cooperative Projects are defined as those projects involving combinations of special funds (sales-tax measure, local, or private) and funding contained in State programming documents. The roles, responsibilities, and funding shall be defined in one or more cooperative agreements, regardless of the amount contributed by either the project sponsor or Caltrans. On those projects that Caltrans is performing project development, right-of-way, and/or construction, the project sponsor shall reimburse Caltrans for their support costs in the same proportion as the project sponsor's share of the total capital costs, unless other equitable arrangements are specified in the agreement.